

REMARKS

This is a response to the office action mailed October 30, 2009. In the office action the Examiner:

- Rejected Claim 7 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement;
- Rejected Claim 2 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
- Rejected Claims 1 and 3-6 under 35 USC 102(e) as being anticipated by Albal et al (US Pat. 6,700,962);
- Rejected Claim 2 under 35 U.S.C.103 (a) as being unpatentable over Albal in view of Wieczorek (EP 1 271 911);
- Rejected Claim 8 under 35 U.S.C.103 (a) as being unpatentable over Albal in view of Parsons et al (US Pub 2002/0085701); and
- Rejected Claims 9-13 and 19 under 35 U.S.C.103 (a) as being unpatentable over Albal in view of Guibourge (US Pub 2004/0119755).

Amendments to Claims

Claim 1 has been amended. Support is provided on page 9, line 20 to page 10, line 26 and Fig. 2 of the application as filed.

Claim 2, 9, 10, and 11 have been amended to correct typographical errors and/or to place the claims in better form.

Claim 3 has been amended. Support is provided on page 4, line 24 to page 5, line 3.

Claim 7 has been amended to correct an antecedent basis. Support is provided on page 10, lines 12-15 of the application as filed.

Claim 19 has been amended. Support is provided on page 4, lines 22-26; page 6, lines 11-20; and Fig. 1 of the application as filed.

Claim 3 has been canceled. No new matter has been added.

Rejections under 35 U.S.C. §112

In the Office Action mailed October 30, 2009, the Examiner rejected claims 2 and 7 under 35 U.S.C. §112.

Applicant has amended claims 2 and 7. As amended, claims 2 and 7 are fully supported by the application as filed. As such, Applicant respectfully requests the Examiner to withdraw the rejection under 35 U.S.C. §112.

Rejections under 35 U.S.C. §102(e)

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” MPEP § 2131, citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP § 2143.03 citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). “During patent examination, the pending claims must be ‘given their broadest reasonable interpretation consistent with the specification.’” MPEP § 2111 citing *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005).

Claims 1-2 and 4-19 are rejected under 35 U.S.C. §102(e) as being anticipated by Albal et al. (US Pat. 6,700,962, hereinafter “Albal”). Applicant respectfully submits that Albal does not teach all elements of independent claim 1, as amended, which includes:

establishing a connection between a caller and a call recipient via a network device during a call process, wherein the call process includes at least a group consisting of a call dial phase, a call set-up phase, a logical association phase, and a call connect phase;

receiving a command signal on the network device during the at least one of the call dial phase, call set-up phase, logical association phase, and call connect phase of the call process; and

initiating a transaction between the caller and the call recipient in response to receiving the command signal, the transaction being other than a standard call connection transaction...

Amended claim 1 specifically requires that a command signal is received on the network device “during at least one of the call dial phase, call set-up phase, logical association phase, and call connect phase of the call process” to initiate a transaction between the caller and the call recipient. In other words, the command signal is received during the call process to initiate a transaction and the transaction is between the caller and call recipient. Albal does not teach or suggest that a command signal is received during the call process, where the command signal initiates a transaction between the caller and call recipient.

Instead, Albal only teaches transactions between a caller and a service location (“communication node”) in a communication network. The Examiner relies on Albal’s teaching of an input signal that is received when the end-user accesses the services of a “communication node.” (See Office Action, page 5, lines 3-5) The Examiner incorrectly equates the “communication node” to be a “call recipient.” Amended claim 1 requires that a connection be established “between a caller and a call recipient via a network device” and that a command signal is received “during...the call process.” A communication device used to access the services of Albal’s communication node is not the same as “establishing a connection between a caller and a call recipient via a network device,” as recited in amended claim 1. The “communication node” is merely a service center in a communication network that stores information about cell phone users and allows a user to access the call detail record of the communication device. (See Albal, col. 4, line 65 to col. 5, line 16) In no way does Albal teach that a connection that is established “between a caller and a call recipient via a network device” to initiate “a transaction between the caller and the call recipient in response to receiving [a] command signal.”

Furthermore, Albal teaches the reverse situation, where a transaction between a caller and call recipient is first “consummated,” and then a signal is sent to retrieve account information from the profile of the end-user. (Albal, col. 3, lines 27-30). Albal, therefore does not teach receiving a command signal “during...the call process” between the caller and call recipient. Furthermore, Albal relates generally to creating and maintaining a user’s call detail record stored at a remote location. (See Albal, FIGS. 2 and 3 and corresponding description.) Thus, Albal’s

teachings are outside the scope of initiating transactions between “the caller and call recipient during the call process.”

Therefore, Albal does not teach all the elements of amended claim 1 or any of the claims that depend from amended claim 1. For at least the reasons stated above, claims 1-2 and 4-19 are patentable over Albal or in combination with one or more of the additionally cited references.

CONCLUSION

By responding in the foregoing remarks only to particular positions asserted by the Examiner, the Applicant does not necessarily acquiesce in other positions that have not been explicitly addressed. In addition, the Applicant’s arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (650) 352-0536, if a telephone call could help resolve any remaining items.

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Respectfully submitted

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